

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CAPITAL ONE, NATIONAL  
ASSOCIATION,

Plaintiff,

v.

48-52 FRANKLIN, LLC, MARSHALL  
WEISMAN, THE NEW YORK CITY  
BUREAU OF HIGHWAY OPERATIONS,  
CREATIVE HABITATS, INC., and CM &  
ASSOCIATES CONSTRUCTION

Defendants.

Civil Action No.: 12-CV-3366 (LGS)

**REFEREE'S REPORT OF SALE**

TO: THE HONORABLE LORNA G. SCHOFIELD, U.S.D.J.

I, JOEL E. ABRAMSON, ESQ., the Referee named in the Judgment of Foreclosure and Sale entered in this matter on or about May 7, 2014 (the "Judgment"), to make the sale of the mortgaged property described in the foregoing Judgment, respectfully reports as follows:

FIRST: That I caused due notice of the sale of said property in one parcel, which took place on October 22, 2014, at 10 am, at public auction at the steps of the United States Federal Court House, 40 Foley Square, New York, New York, to be given and published according to law and the rules and practice of this Court, as set forth in the original Affidavit attached hereto as Exhibit A.

SECOND: That at the time and place for which said sale was noticed as aforesaid, I attended in person, and agreeable to such notice, offered the said mortgaged property for sale to

the highest bidder, and sold the same to the Plaintiff, for the sum of \$2,000.00 (the "Purchase Money"), that being the highest sum bid therefor.

THIRD: That the Plaintiff subsequently assigned its winning bid pursuant to an Assignment of Bid at Foreclosure Sale to the Board of Managers of 50 Franklin Street Condominium..

FOURTH: That I have made, executed and delivered to the Board of Managers of 50 Franklin Street Condominium, a good and sufficient deed of conveyance of the mortgaged property so sold.

FIFTH: That I have waived from said purchaser ten percent of the Purchase Money at the time of the sale, together with the balance of the Purchase Money when I delivered to the Purchaser the aforementioned deed pursuant to the Judgment.

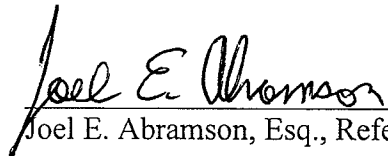
SIXTH: That no surplus funds exist.

SEVENTH: That after the sale mentioned herein and the disposal of the proceeds therefrom, as above provided, there exists a deficiency in the sum of \$1,881,942.05, remaining due to Plaintiff on the Note and Mortgage which this action was brought to foreclose.

EIGHTH: That annexed to this report is a statement showing the aforesaid items and the computation of the deficiency.

NINTH: That I have received from McCarter & English LLP, attorneys for the Plaintiff, the sum of \$1,000 (\$500 of which was on account of one cancelled auction due to the filing of a bankruptcy case by 48-52 Franklin, LLC) as and for the fees and commissions to which I am entitled upon said sale.

Dated: October 23, 2014

  
Joel E. Abramson, Esq., Referee

REFEREE'S STATEMENT

TOTAL JUDGMENT AMOUNT: \$1,747,482.17

## CALCULATION OF INTEREST

Accrued Interest at Note Rate  
(From 11/1/13 to entry of judgment on 5/7/14)

a.	Interest Rate	9.00%	
b.	Per Diem Interest ( $\$1,747,482.17 \times .09 / 360$ )	\$430.89	
c.	No. of days from 11/1/13 through 5/7/14	187	
d.	Interest accrued		\$80,575.68

CALCULATION OF LEGAL  
INTEREST ON JUDGMENT  
FROM 5/7/14 THROUGH 10/22/14  
(DATE  
OF SALE)

a.	Legal Interest	0.10%	
b.	<u>Per Diem Interest</u> ( $\$1,747,482.17 \times .001 / 360$ )	\$0.22	
c.	No. of Days from 5/7/14 Through 10/22/14	168	
d.	Total Interest from 5/7/14 Through 10/22/14		\$ 37.09

ADDITIONAL AMOUNTS DUE

a. Referee's Fee	\$1,000.00
Attorneys' Fees awarded per Judgment	\$52,770.92
Legal Costs awarded per Judgment	\$2,076.19
Total Amount Needed to Make Plaintiff whole	\$1,883,942.05
Less Amount of Purchase Money	(\$2,000.00)

**DEFICIENCY**

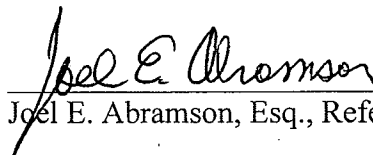
**\$1,881,942.05**

STATE OF NEW YORK     )  
  ) ss:  
COUNTY OF NEW YORK    )

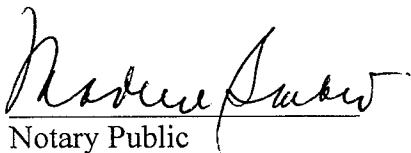
JOEL E. ABRAMSON, ESQ., being duly sworn, deposes and says:

That he is the Referee duly appointed herein to make the sale in the above-entitled action and the officer who made such sale.

That the above report of sale signed by him is in all respects true and correct, and said report and statement annexed thereto contains a true and complete report of the disposition of the proceeds of such sale.

  
Joel E. Abramson, Esq., Referee

Sworn to before me this 23<sup>rd</sup> day of Oct., 2014

  
Notary Public

**MADELINE SHABOT**  
Notary Public, State of New York  
No. 24-4706187  
Qualified in Kings County  
Commission Expires December 31, 20 17

NOTARY PUBLIC  
MADELINE SHABOT  
KINGS COUNTY, NEW YORK

**EXHIBIT A**

**Affidavit of Publication**

STATE OF NEW YORK

County of New York, ss:

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT  
OF NEW YORK — CAPITAL ONE NATIONAL ASSOCIATION, Plaintiff  
against 48-52 FRANKLIN, LLC, et al Defendant(s).

Pursuant to a Judgment of Foreclosure and Sale entered herein and dated May 7, 2014, I, the undersigned Referee will sell at public auction at the United States District Court house, 140 Foley Square, New York, NY on the 22nd day of October, 2014 at 10:00 AM premises lying and being in the Borough of Manhattan, County of New York City and State of New York in the Condominium known as 50 Franklin Street Condominium. The following Units all in Block 172: Unit 1A, Tax Lot No. 1401 with a 0.6189% of common interest; Unit 3D, Tax Lot No. 1410 with a 1.4292% of common interest; Unit P1, Tax Lot No. 1545 with a 0.0546% of common interest.

Unit P4, Tax Lot No. 1548 with a 0.0546% of common interest; Unit P6, Tax Lot No. 1550 with a 0.0546% of common interest; Unit P7, Tax Lot No. 1551 with a 0.0546% of common interest; Unit P8, Tax Lot No. 1552 with a 0.0546% of common interest; Unit P9, Tax Lot No. 1553 with a 0.0546% of common interest.

Unit P10, Tax Lot No. 1554 with a 0.0546% of common interest. Said premises known as 48-52 FRANKLIN STREET, NEW YORK, NY.

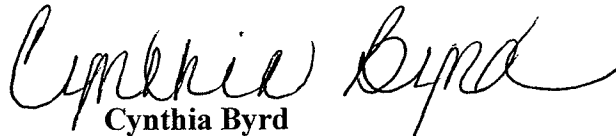
Approximate amount of lien \$ 1,747,482.17 plus interest & costs. Premises will be sold subject to provisions of filed judgment and terms of sale.

Index Number 12-CV-3366, JOEL E. ABRAMSON, ESQ. Referee, McCarter & English, LLP Attorneys for Plaintiff 245 Park Avenue, 27th Floor New York, NY 10167  
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Emogene Hayes, being duly sworn, says that she is the PRINCIPAL CLERK of the Publisher of the **NEW YORK LAW JOURNAL**, a Daily Newspaper; that the Advertisement hereto annexed has been published in the said **NEW YORK LAW JOURNAL** in each week for 4 successive weeks, commencing on the 17th day of September, 2014.

TO WIT: SEPTEMBER 17, 24, 2014, 2014 OCTOBER 1, 8, 2014

SWORN TO BEFORE ME, this 8th day  
Of October, 2014.



Cynthia Byrd  
Notary Public, State of New York  
No. 01BY6056945

Qualified in Kings County  
Commission Expires April 09, 2015